



COLUMBIA HEIGHTS POLICE DEPARTMENT POLICY MANUAL

TITLE: DOMESTIC VIOLENCE	GENERAL ORDER NUMBER: 606
REFERENCES: M.S. §§ 13.82, 518B.01, 609.06, 629.341, 629.342, 626.556, 629.72, 609.749, Domestic Violence Training Outline	EFFECTIVE DATE: 06/01/2016
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It is the policy of the Columbia Heights Police Department to recognize domestic abuse as a serious problem in today's society. This agency's policy is to protect victims of domestic abuse by making an arrest whenever it is authorized, and by ensuring its peace officers understand the laws governing this area.

Peace officers shall utilize this policy in response to calls when there may be domestic abuse. This policy prescribes courses of action peace officers shall take in response to a domestic call. This agency shall aggressively enforce the laws without bias or prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

606:1 Definitions

Domestic Abuse

(Reference Minnesota Statutes § 518B.01, Subdivision 2a). "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

- Physical harm, bodily injury, or assault;
- The infliction of fear of imminent physical harm, bodily injury, or assault; or
- Terroristic threats, within the meaning of section 609.713, Subdivision 1; criminal sexual conduct, within the meaning of sections 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

Family or Household Members

(Reference Minnesota Statutes § 518B.01, Subdivision 2b.) "Family or household members" means:

- Spouses and former spouses;
- Parents and children;
- Persons related by blood;
- Persons who are presently residing together or who have resided together in the past;
- Persons who have a child in common, regardless of whether they have been married or have lived together at any time;
- A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- Persons involved in a significant romantic or sexual relationship.

Probable Cause

Probable cause is a belief based on an officer's observations and reasonable judgment, and statements by parties and witnesses involved, that a crime occurred and the subject committed the crime.

Self-Defense

Self-defense is defined as a person's justifiable use of force against another person when such force is necessary to defend himself/herself or a third party from what they reasonably believe to be the use, or imminent use, of unlawful physical force as described in Minnesota Statutes § 609.06, **Subdivision 1(3)**. The use of force shall be reasonable for that person given the nature of the threat. Reasonable force to defend oneself does not include seeking revenge or punishing the other party. The use of self-defense can last for only as long as reasonably perceived necessary to defend oneself.

Qualified Domestic Violence Related Offense (QDVRO)

QDVRO refers to prior convictions for violation of an Order For Protection (OFP) or Harassment Restraining Order (HRO), assault in the first through fifth degree, domestic assault, criminal sexual conduct in the first through fourth degree, malicious punishment, terroristic threats, harassment, or stalking. If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime. (See Domestic Abuse Enhancement chart appended hereto.) The QDVRO includes violations of similar laws in other states, or under federal or tribal law.

606:2 Responding to the Calls**606:21 Initial Contact with Occupants**

Upon arriving at the scene of a domestic call, the responding officers should identify themselves as peace officers, explain their presence, and request entry into the home. The officers shall ask to see the person who is the alleged victim of the call. If the person who called the law enforcement agency is someone other than the subject of the call, the

officer shall not reveal the caller's name. The officer shall ensure all of the occupants are safe.

606:221 Entry

Refused – If refused entry, the officers shall be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers shall request the dispatcher to contact the caller.

Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry.

606:3 Arrest Decisions**606:31 Making Arrests**

After securing the scene and providing any first aid, the peace officers shall begin a criminal investigation to determine if there is probable cause to believe that a crime has been committed based on the evidence, and not solely upon the victim's desire to make an arrest. The officers shall legally collect relevant physical evidence, including weapons that may have been used, take photographs of the scene or any injuries, and obtain statements from the involved parties and witnesses. Some of the evidence and statements include:

- Statements should be taped whenever possible;
- Condition of clothing;
- Property damage;
- Excited utterances of the victim or the suspect;
- Demeanor of the victim and the suspect;

- Medical records including the victim's statements to paramedics, nurses, and doctors;
- Interviews of witnesses, including the children who may have been present;
- Evidence of any prior domestic abuse-related convictions, including dates; and
- Any existing orders for protection, harassment restraining orders, or no-contact orders.

606:311

When determining probable cause, the peace officers shall consider their observations and any statements by parties and witnesses involved. Prior convictions may provide the basis for enhancement to a gross misdemeanor, or even felony charges.

606:32 Factors Not to be Considered in Making the Arrest

The following factors shall not be considered in making the arrest:

- Ownership, tenancy rights of either party, or the fact that the incident occurred in a private place;
- Belief that the victim will not cooperate with criminal prosecution, or that the arrest may not lead to a conviction;
- Verbal assurances that the abuse will stop;
- Disposition of previous police calls involving the same victim or suspect;
- Denial by either party that the abuse occurred when there is evidence of domestic abuse;
- Lack of a court order restraining or restricting the suspect;
- Concern about reprisals against the victim;
- Adverse financial consequences that might result from the arrest; or

- Chemical dependency or intoxication of the parties.

606:33 Single Offender

If a person is determined to be the sole aggressor and the persons involved meet the definition of family or household member, that person shall be arrested and taken into custody when an officer has probable cause to believe that within the preceding seventy two (72) hours the person has committed domestic abuse as defined in Minnesota Statutes § 518B.01, Subdivision 2.

606:34 Multiple Offenders

In accordance with Minnesota Statutes § 629.342, Subdivision 2, the Columbia Heights Police Department discourages dual arrests. When evidence of mutual combat is present, the situation does not necessarily dictate the arrest of both parties. Instead, officers shall first determine the predominant physical aggressor, and eliminate the possibility that either party was acting in self-defense.

606:341 Self-Defense

Investigating officers need to carefully distinguish offensive and defensive wounds. In determining self-defense, officers shall consider the following elements of self-defense:

- The person using force had a reasonable belief that he/she was at risk of bodily harm. (Did the person using force, not the officer, believe he/she was at risk?);
- The risk of harm was actual or imminent. (Violence, which is retaliatory, is not self-defense.);
- The force used was reasonable and necessary to prevent or stop the infliction of bodily harm.
 - Size and strength differentials between self-defender and abuser can be considered.
 - The duty to retreat does not include a duty to flee one's own home.

606:342 Predominant Aggressor

If the officer determines that neither party acted in self-defense and that both parties committed an act of domestic violence, the officer shall make a custodial arrest of the predominant aggressor. The intent of the law is to protect victims who are vulnerable to ongoing domestic abuse in their current relationship. When making a determination about who is the predominant aggressor, officers shall consider the following:

- Was a good self-defense determination made;
- Is there any prior history of violence;
- What is the comparative strength of each party;
- What is each party's ability to do what was alleged;
- What other evidence is present (both physical and circumstantial);
- What do other witnesses state (including children);
- What harm was done? What was the relative severity, and extent of injuries and/or fear inflicted in this incident to each party;
- What is the likelihood of future injury to either party;
- Who is afraid of whom? What is he/she afraid of;
- What was the purpose of the violence; (i.e. was it to control the other party's aggression or future use of violence? If so, this may be a mitigating factor.); and
- What was the relative use of force and intimidation used in this incident?

606:3421

The following factors do not, in and of themselves, determine which party is the predominant aggressor:

- Who threw the first blow;
- Who started the argument, which led to the violence or the use of force;
- Who is the most obnoxious to the officers;
- Who said the meanest thing, or made the most insulting remark to the other; and
- Who is the most drunk, or under the influence of drugs when the officers arrive.

606:3422

A person who is acting in self-defense has not committed an assault, and is neither a predominant nor secondary aggressor.

606:3423

This disposition of the predominant aggressor shall be determined using the criteria for single arrest. The reports are forwarded to the appropriate prosecuting attorney with the officers' recommendation concerning whether or not charges are appropriate for the non-dominant aggressor. The prosecuting attorney is responsible for determining disposition involving the non-dominant aggressor.

606:343 Dual Arrest

In situations where probable cause exists to arrest both parties but self-defense is not involved, and an arrest of the predominant aggressor alone cannot be made, both persons shall be arrested. In situations warranting a dual arrest, if there are children present in the home, officers may make a determination about who is

best able to care for the children shall be referred for charge by formal complaint. If neither person is able to care for the children, custodial arrests of both can be made, and arrangements made for the care of the children.

606:344 Victim Request Not To Prosecute

If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest, but the victim requests no arrest or prosecution, the officer shall inform the victim that the decision to arrest is the officer's, and the decision to prosecute lies with the prosecutor.

606:4 Authority and Types of Arrest**606:41 Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault**

A peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person within the preceding seventy two (72) hours, excluding the day probable cause was established, has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not take place in the presence of the peace officer (Minnesota Statutes § 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

606:411 Single Arrest

An arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides (Minnesota Statutes § 629.72, Subdivision 1a).

606:5 Children Exposed to Domestic Abuse**606:51 Child Present at the Scene**

If a child is present at the scene of a domestic call or is the victim of domestic abuse, the peace officer shall determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the requirements of Minnesota Statutes § 626.556, *Reporting of Maltreatment of a Minor*.

606:6 Staying at Scene, Assistance, Crime Victim Rights/Services**606:61 Staying at the Scene**

If an arrest does not occur, peace officers shall remain at the scene of the disturbance until they believe that the likelihood of further imminent abuse has been eliminated. If a domestic abuse intervention program is available, the peace officer should consider the value of immediate intervention where it would be helpful to the victim.

606:62 Notice of Crime Victim's Rights

Peace officers shall give the victim of a domestic call a Domestic Abuse Response Team (DART) brochure with all the necessary information.

606:64 Alexandra House

Peace officers shall contact Alexandra House as soon as possible if it is reasonable believed it would be helpful to the victim. This section shall not apply if prohibited by the Minnesota Government Data Practices Act (Minnesota Statutes § 13.82, Subdivision 10).

Peace officers shall contact Alexandra House as soon as possible on all arrest and Qualified Domestic Violence Related Offenses (QDVRO). The officer will provide the name and address of the victim or victims and a brief factual reconstruction of the events associated with the incident.

606:65 Lethality Assessment Protocol (LAP)

The LAP is a tool that is used to assist in identifying victims who are in danger of

being killed. The LAP is to be used only in cases of intimate relationships and under any of the following circumstances:

- When the Officer believes an assault has occurred, or
- When the officer believes the potential for danger is high, or
- When names of parties or locations are repeat names or locations, or
- When the Officer believes the situation is dangerous and the LAP should be conducted.
- When there is an OFP/HRO/DANCO violation and any of the above listed circumstances exist.

If the LAP is used, Officers are to complete the Domestic Violence Lethality Screen for First Responders Form. Once the screening is completed, and it is determined that the situations triggers a protocol referral, the Officer will advise the victim that they will be calling Alexandra House to get information for assistance, and to have them consider speaking with them on the phone. Officers will call Alexandra House and provide basic information to the advocate, and will then put the victim on the phone with the advocate and stand by. Once the victim finishes, Officers will conclude the call by speaking with the advocate.

606:7 Reports

606:71 Written Reports

Minnesota Statutes § 629.341, Subdivision 4 requires officers investigating any alleged incident of domestic abuse to complete a written report. The report shall include the following:

- Detailed statements from the victim, suspect, and witnesses;
- Description of injuries;

- Information about past abuse;
- Description of the scene;
- Predominant aggressor;
- Existence of language barriers;
- Presence of elderly victims or those with disabilities; and
- Documentation of evidence.

606:8 Mandated Victim Assistance

606:81 Information Card and Notification of \ Rights and Services

In all domestic abuse incidents, officers shall provide the victim with a Columbia Heights Police Department Domestic Abuse Response Team brochure, which contains the ICR number and the officer's name. Officers shall advise victims of their rights, and the availability of services. Incidents involving child victims require notification to Anoka County Child Protection Services.

606:82 Transportation of the Victim

If the victim needs transportation, the responding officer shall offer to transport the victim, or make arrangements for transportation to a safe place. Officers shall not list the actual location of the shelter in their report or transmit the location over the radio, but will indicate that the victim is being transported to a 'safe location' and transmit starting and ending mileage when appropriate.

BY ORDER OF:

Scott Nadeau, Chief of Police

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